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NOT ADMITTED TO DC BAR

November 23, 2004

Mr. Jeff S. Jordan
Federal Election Commission
999 E Street, N W
Washington, D C 20463

Re MUR 5572

Dear Mr. Jordan

As counsel for Rogers for Congress, we hereby respond to the Complaint filed in the above designated MUR

Initially, Rogers for Congress and David Rogers note that the Complaint is based in part upon hearsay contained in newspaper articles. See, e.g., paragraph 5 of the Complaint. As the attached Memo of Understanding demonstrates, some of the allegations contained in the Complaint are erroneous.

Complainant alleges that David Rogers converted campaign contributor lists owned by the campaign committee, which were acquired or developed by the use of campaign funds, to the personal use of David Rogers. Additionally, Complainant alleges that David Rogers received income from the alleged sale of these contributor lists. Consequently, Complainant alleges violations of 2 U.S.C. § 439a.

As the attached Memo of Understanding demonstrates, David Rogers had ownership rights in the contributor list. Both David Rogers and the Friends of Dave Rogers campaign co-owned the campaign donor lists. As the Commission is aware, it is a common practice for candidates and officeholders to lend their names and/or likenesses to their campaigns or other political committees for fundraising solicitations, in return for an ownership interest in the list of names of those responding to their mailings. These commercially reasonable types of transactions have previously been reviewed and approved by the Commission. See, e.g., Advisory Opinions 1981-46 and 1982-41.

Additionally, in MURS 4382/4401 and 5181, the Commission obtained strong evidence that these kinds of transactions and practices are widespread and customary. See, e.g., MUR 5181 Statement of Reasons of Commissioners David M. Mason and Michael E. Toner at 6-7. While the Dole MUR involved the exchange of a signature for a one-time use of responsive names, the testimony of direct mail industry experts has not

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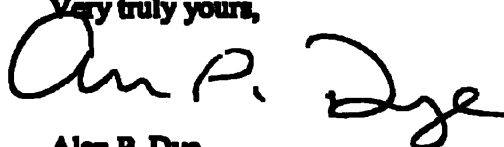
~~indicated that one time use was a universal or exclusive rule. *Id.* at 8. Furthermore,~~
MUR 5160 (Friends of Giuliani Exploratory Committee) indicates that joint ownership of
mailing lists is not uncommon

Like the transactions previously approved by the Commission, the agreement
between David Rogers and the Friends of Dave Rogers represented a bargained-for
exchange of equal value that is a usual and customary practice in the direct mail industry.
In exchange for David Rogers's personal contributions to the creation of the mailing lists,
his signature on all fundraising letters, and his life story contained in the fundraising
solicitations, all names generated from the direct mail solicitations are deemed co-owned
by David Rogers and the Friends of Dave Rogers campaign.

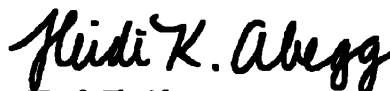
Because David Rogers co-owns the donor lists, there is no conversion of
campaign property to personal use. Therefore, David Rogers is permitted to rent or "sell"
the lists and receive income in exchange for this arms-length rental or sale.

Having shown above that no violation of § 439a occurred, David Rogers and
Rogers for Congress respectfully request that the Complaint be dismissed. If you have
any questions, please do not hesitate to contact us.

Very truly yours,



Alan P. Dye



Heidi K. Abegg

Attorneys for Rogers for Congress
and David Rogers

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Memorandum of Understanding

This contract concerns an understanding between Dave Rogers (individually) and Friends of Dave Rogers (a campaign committee) with respect to ownership rights of the campaign donor list.

In consideration of his personal contributions to the creation of such list; his signature on all fundraising letters, and his life story which is contained in these solicitations, all names generated as a result of any direct mail solicitation shall be co-owned by Dave Rogers individually and the Friends of Dave Rogers campaign.

Signed: _____

Dave Rogers (individually)

Date: _____

4/1/01

Signed: _____

Christine Whelan (Treasurer)

Date: _____

10/1/01

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